

THE HONORABLE BENJAMIN H. SETTLE

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

KYLIE STEELE,

Plaintiffs,

v.

NATIONAL RAILROAD PASSENGER
CORPORATION, a/k/a AMTRAK, a
District of Columbia corporation; and,
DOES ONE THROUGH FIFTY,

Defendants.

Case No. 3:19-cv-05553-BHS

**PLAINTIFF'S POST-TRIAL MOTION
FOR COSTS AND NECESSARY
DISBURSEMENTS**

**NOTED FOR CONSIDERATION ON
DECEMBER 31, 2021**

I. INTRODUCTION

Plaintiff Kylie Steele moves for an order awarding costs totaling \$14,539.19 pursuant to the Federal Rules of Civil Procedure Rule 54(d)(1) as the prevailing party in this action.

II. BACKGROUND AND RELEVANT FACTS

Ms. Steele prevailed on her claims against Defendant National Railroad Passenger Corporation ("Amtrak") for the injuries she has suffered and continues to suffer due to the breach of Amtrak's duty of care relating to the train derailment that occurred on December 18, 2017.

Commensurate with the legal and factual complexities of this case, the parties engaged in extensive pre-trial discovery.

III. AUTHORITY

A. MS. STEELE IS ENTITLED TO COSTS FOR FEES OF THE CLERK.

Fees of the clerk and marshal are included within the permissible taxable costs awarded to the prevailing party. 28 U.S.C. §1920(1). On June 18, 2019 Plaintiff paid \$400.00 to the United States District Court, Western District of Washington for filing fees.

B. PLAINTIFF IS ENTITLED TO COSTS FOR PRINTED OR ELECTRONICALLY RECORDED TRANSCRIPTS NECESSARILY OBTAINED FOR USE IN THE CASE.

Fees for printed or electronically recorded transcripts necessarily obtained for use in the case are also taxable costs awarded to the prevailing party. 28 U.S.C. §1920(2). Taxing of costs for depositions transcripts and copies is admissible. *Alflex Corp. v. Underwriters Laboratories, Inc.*, 914 F.2d 175, 177, 17 Fed. R. Serv. 3d. 1283 (9th Cir. 1990). Additionally, the costs of transcripts of trial testimony may be taxed. *Self v. FCA U.S. LLC*, 2019 WL 1994459 at *14 (E.D. CA 2019).

Plaintiff Kylie Steele incurred costs totaling \$4,214.85 for transcripts necessarily obtained for use in the case. On October 6th, 2020 Plaintiff incurred a cost of \$745.75 for a transcript of the deposition of Kylie Steele. On January 8th, 2021 Plaintiff incurred a cost of \$761.75 for a transcript of the deposition of James Chesnutt. On February 12th, 2021 Plaintiff incurred a cost of \$742.90 for a transcript of the deposition of Michelle Brown. On February 19th, 2021 Plaintiff incurred a cost of \$665.70 for a transcript of the deposition of Bruce Wojciechowski. On June 23rd, 2021 Plaintiff incurred a cost of \$601.25 for a transcript of the deposition of Rik Lemoncello. On November 16th, 2021 Plaintiff incurred a cost of \$516.00 for

1 transcripts of trial testimony. On November 12, 2021 Plaintiff incurred a cost of \$181.50 for the
2 cost of a transcript of phone conference with the court. Each of these costs were incurred for
3 transcripts that were necessarily obtained for use in the case. Plaintiff respectfully asks that the
4 court award \$4,214.85 in costs for transcripts necessarily obtained for use in the case.

5 **C. PLAINTIFF IS ENTITLED TO COSTS FOR PRINTING**

6 Fees and disbursements for printing are taxable as costs. 28 U.S.C. §1920(3). Over the
7 two years of litigation, Plaintiff incurred \$3,093.90 in costs for printing materials necessary for
8 the case. Plaintiff is entitled to this expense as a taxable cost.

9 **D. PLAINTIFF IS ENTITLED TO COSTS FOR WITNESSES.**

10 Fees and disbursements for witnesses are taxable as costs. 28 U.S.C. §1920(3). A witness
11 in attendance at any court of the United States or before any person authorized to take his
12 deposition shall be paid fees and allowances, including an attendance fee of \$40 per day,
13 reimbursement for travel costs, and subsistence if a room is required. 28 U.S.C. § 1821.

14 Plaintiff Kylie Steele incurred taxable costs totaling \$1,561.78 for witnesses. This figure
15 represents the attendance fee for ten witnesses for depositions and trial. Dr. James Chesnutt is
16 entitled to an attendance fee of \$40.00 per day for each of the three days that he appeared in trial
17 in this case, as well as the one day that he appeared for a deposition, totaling \$160.00. Dr. Rik
18 Lemoncello appeared one day for a deposition and two days at trial, entitling him to a total
19 attendance fee of \$120.00. Dr. Michelle Brown appeared one day for a deposition, and one day
20 at trial, entitling her to a total attendance fee of \$80.00. Dr. Bruce Wojciechoswski appeared one
21 day for a deposition, and one day at trial, totaling an \$80.00 attendance fee. Susan Byers appeared
22 as a witness for one day at trial, totaling a \$40.00 attendance fee. Anthony Choppa appeared as
23 a witness for one day at trial, totaling a \$40.00 attendance fee. Jeffrey Opp appeared as a witness

1 for one day at trial, totaling a \$40.00 attendance fee. Dr. James Carson appeared as a witness for
2 one day at trial, totaling a \$40.00 attendance fee. Nancy Steele appeared as a witness for one day
3 at trial, totaling a \$40.00 attendance fee. Kirin Casteel appeared as a witness for one day at trial,
4 totaling a \$40.00 attendance fee. Together, the attendance cost of \$40.00 per day for each witness
5 totals \$720.00 of costs that Plaintiff Kylie Steele, as the prevailing party, is entitled to.

6 In addition to attendance fees as described above, Dr. Chesnutt required a room rental for
7 two days in order to be able to have a stable and sufficient connection for his remote testimony,
8 a subsistence expense which totaled \$133.88. Furthermore, technology assistance was needed to
9 ensure that witnesses were able to adequately connect and to remain connected to the virtual
10 proceedings for their testimony. The total cost of this technology, which was necessary given the
11 unique nature of a remotely conducted Zoom trial, was \$708.75. Given that this technology
12 facilitated the testimony of each of the witnesses at trial, the expense breaks down to a per witness
13 subsistence fee of \$70.88. In total, the taxable witness expenses were \$1,562.32.

14 **E. THE COURT SHOULD AWARD OTHER COSTS TO PLAINTIFF**

15 Given the unique nature of a remotely conducted Zoom trial, Plaintiff Kylie Steele was
16 required to expend \$5,268.12 in costs for equipment and room rental to be able to facilitate the
17 trial. These costs include \$300.00 to rent webcams to ensure that the trial could proceed;
18 \$1,350.00 to rent monitors and laptops which were necessary for the remote Zoom trial; \$390.00
19 to rent power sources and cabling necessary to ensure connectivity throughout trial; and
20 \$3,228.12 for a meeting room rental needed to allow Zoom connectivity for the duration of the
21 trial. Given the unique nature of Zoom trials and the technology and equipment beyond that of
22 which a law firm's typical equipment, Plaintiff requests that the court award \$5,268.12 in other
23 costs solely attributable to this proceeding.

1 **IV. CONCLUSION**

2 For the foregoing reasons, the plaintiff respectfully requests that the court award costs
3 totaling \$14,539.19 to the Plaintiff Kylie Steele, as the prevailing party. The total, \$14,539.19,
4 is the cumulation of the \$400.00 filing fee recoverable under §1920(1); \$4,214.85 in costs of
5 deposition and trial transcripts necessary for the case recoverable under §1920(2); \$3,093.90 in
6 costs for printing as recoverable under §1920(3); and \$1,562.32 for witness attendance fees
7 recoverable under §1920(3); as well as \$5,268.12 in other costs for technology necessary to
8 facilitate the Zoom trial.

9
10 Dated December 14, 2021

ROSSI VUCINOVICH PC

11 By: /s James K. Vucinovich
12 James K. Vucinovich, WSBA #29199
13 C. N. Coby Cohen, WSBA #30034
14 **ATTORNEYS FOR PLAINTIFF**